

## REMARKS

Applicant respectfully requests reconsideration of the present application.

Claims 1, 2, 4-5, 13-14, 16-23, 27-28, 32 and 34-38 are pending. Claims 1-2, 5, 13-14, 18, 19, 22, 27-28, 32 and 34-38 have been amended. No new matter has been added.

### **Rejections under 35 U.S.C. § 103**

The Examiner rejected claims 1, 2, 4-5, 13-14, 16-23, 27-28, 32, and 34-38 under 35 U.S.C. § 103(a) based on U.S. Patent Publication No. 2002/0029384 of Griggs ("Griggs") in view of U.S. Patent No. 6,774,926 to Ellis et al. ("Ellis") and further in view of U.S. Patent Publication No. 2005/0204387 of Knudson et al. ("Knudson").

#### Griggs as Prior Art

Applicant respectfully disagrees with the Examiner's assertion that Griggs is properly relied on as prior art. Griggs does not antedate the present application; only the two provisional applications (Nos. 60/219,857 & 60/233,581), on which Griggs claims priorities, antedate the present application. In this case, the Examiner should rely on the portion commonly disclosed in both Griggs and the two provisional applications.

The Board of Patent Appeals and Interferences has recently held:

*"But the Examiner did not rely on that portion of the Narayanan patent (i.e., not disclosed in the provisional application) in the rejection. Rather, the Examiner relied on Figures 2, 3 and 7 of the reference. These figures clearly correspond to Figures 2, 3 and 7 of the provisional application .... Furthermore, the corresponding discussion of these figures in the patent is commensurate with that found in the provisional application. ... Accordingly, we will sustain the Examiner's rejection ...." In Ex parte Yamaguchi (B.P.A.I. 2008) (Precedential Opinion).*

However, the portion of Griggs, which the Examiner relies on, is not disclosed in the two provisional applications. For example, Figures 1-5 and paragraphs [0028]-[0031], [0033]-[0034] & [0036]-[0038] of Griggs, which the Examiner cites to reject claim 1, are not found in any of the two provisional applications. Thus, Applicant respectfully requests removal of Griggs from prior art for the present application.

#### Discussion of Rejections

Nonetheless, to show patentability of the currently claimed invention, Applicant continues to discuss the two provisional applications together with Griggs.

Claim 1, as amended, recites a *customer-made* channel for television programs selected by a customer. The customer-made channel is created by the customer and is *specific and dedicated to* the customer. However, the two provisional applications, as well as Griggs, focus on customized *multimedia content guide*, not a customer-made channel for television programs. The provisional application No. 60,233, 581 provides:

“... the innovation of their invention is the catalog that is created for the user, using the user’s content specification and preference, is *independent of a specific content delivery mechanism*. ... By being independent of content delivery, the catalog can include content of a *wide variety of sources* ....”

“For instance, ... even “*off-line*” content like what is available via videotape rental stores. ... placing an order for a videotape that is *physically mailed to the user*,” and “the user can select content to catalog *from any sources available*.”

Indeed, the two provisional applications (as well as Griggs) do not teach or suggest the customer-made channel of claim 1, which is *specific and dedicated to* a customer for the television programs selected by the customer. As a result, the two

provisional applications (as well as Griggs) cannot teach or suggest “transmitting the obtained television programs to the customer *using the customer-made channel* created by the customer,” as required by claim 1.

Furthermore, it is clear that the two provisional applications (as well as Griggs) do not teach or suggest “determining whether the selected television program conflicts in viewing time with a program previously added to the customer-made channel ...,” as recited in claim 1.

Ellis does not cure the deficiencies of the two provisional applications (as well as Griggs). The personal TV channels in Ellis are not the customer-made channel of claim 1. The customer-made channel of claim 1 is created *by the customer* and delivered *only to the customer* (for the customer to watch the self-created channel). By contrast, the personal TV channels of Ellis are created by individual contributors *for all viewers*. (Fig. 14, and col. 11, ln. 46-49) As a result, like traditional TV channels, each of the personal TV channels of Ellis is not specific or dedicated to a single viewer. (Figs. 9, 10, 11, 12 and 13) Thus, Ellis does not teach or suggest the customer-made channel of claim 1.

Accordingly, Ellis does not teach or suggest “transmitting the obtained television programs to the customer *using the customer-made channel created by the customer*,” as required by claim 1.

Knudson does not cure the deficiencies of the two provisional applications (as well as Griggs) and Ellis. It is clear that Knudson does not teach or suggest the

customer-made channel of claim 1. Consequently, Knudson cannot teach or suggest “transmitting the obtained television programs to the customer *using the customer-made channel* created by the customer,” as required by claim 1.

Moreover, contrary to the Examiner’s assertion, Knudson does not disclose or suggest the conflict resolving operations of claim 1. In claim 1, even though “the selected television program conflicts in viewing time with a television program previously added to the customer-made channel,” the selected television program can be added to the customer-made channel together with the previously added television program,

- (1) “if it is determined to record the selected television program or the previously added television program for viewing at a different time by the customer,” *or*
- (2) if it is determined “to provide simultaneous access to the selected television program and the previously added program.”

However, in Knudson, when a television program order conflict occurs, the user just has to cancel or confirm the order. Knudson is silent as to *any conflict resolving options for the user to access time-conflicting programs if any*. (Pars. [0201]-[0203])

Thus, neither the two provisional applications (as well as Griggs) nor Ellis nor Knudson, nor any combination of those, teaches or suggests claim 1, Applicant respectfully requests withdrawal of the rejection with respect to claim 1 under 35 U.S.C. § 103 in view of Griggs, Ellis and Knudson.

Claims 18 and 28 contain similar limitations as the limitations of claim 1.

Therefore, at least for the reasons discussed above, Applicant respectfully requests withdrawal of the rejection of claims 18 and 28 in view of Griggs, Ellis and Knudson.

Claims 2, 4, 5, 13, 16-17, 19-23, 27, 32 and 34-38 depend, directly or indirectly, from one of claims 1, 18 and 28, and thus, include the limitations set forth in their respective base claim. Therefore, at least for the reason discussed above, it is respectfully requests withdrawal of the rejection of claims 2, 4, 5, 13, 16-17, 19-23, 27, 32 and 34-38 in view of Griggs, Ellis and Knudson.

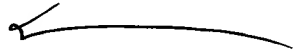
In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,

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